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PERFORMANCE CONTRACTORS, INC.

14 UNITED STATES DISTRICT COURT

15 NORTHERN DISTRICT OF CALIFORNIA—SAN FRANCISCO DIVISION

17 UNITED STATES OF AMERICA for the Use and
18 Benefit of WEBCOR CONSTRUCTION, INC. dba
WEBCOR BUILDERS, and WEBCOR
19 CONSTRUCTION, INC. dba WEBCOR
BUILDERS,

20 Plaintiffs,
21 vs.

22 DICK/MORGANTI, a joint venture, DICK
23 CORPORATION, THE MORGANTI GROUP,
AMERICAN CASUALTY COMPANY OF
24 READING, PA, NATIONAL UNION FIRE
INSURANCE COMPANY OF PITTSBURGH, PA,
25 , and DOES 1 through 10, inclusive,

26 Defendants.

27 AND RELATED COUNTER-CLAIMS AND
THIRD PARTY CLAIMS.

28 Case No.: 3:07-CV-02564-CRB

STIPULATION AND [PROPOSED] ORDER EXTENDING TIME TO FILE OPPOSITION AND REPLY IN CONNECTION WITH PERFORMANCE CONTRACTING, INC.'S MOTION TO DETERMINE WHICH PORTIONS OF CLAIM ARE PASS THROUGH AND WHICH ARE NOT PASS THROUGH

Date: January 23, 2009
Time: 10:00 a.m.
Judge: Hon. Charles R. Breyer
Place: Courtroom 8

1 Pursuant to Civil Rule 6-2, Performance Contracting, Inc. ("PCI"), and Dick/Morganti, a
2 Joint Venture ("Dick/Morganti"), submit this stipulation to extend the time to file opposition and
3 reply papers in connection with a pending motion.

4 Whereas, PCI filed its Motion to Determine Which Portions of Claim Are Pass Through
5 and Which Are Not Pass Through ("PCI's Pass-Through Motion") on December 18, 2008, making
6 Dick/Morganti's opposition due on January 2, 2009, and PCI's reply due on January 9, 2009;

7 Whereas, counsel for Dick/Morganti was unavailable December 22, 2008 through
8 December 26, 2008, due to a pre-planned family vacation; and

9 Whereas Dick/Morganti's opposition will rely on declarations it has not yet been able to
10 obtain on account of the year-end holidays (including the fact that the offices of Dick Corp. are
11 closed from December 24, 2008 to January 5, 2009);

12 For these reasons, Dick/Morganti and PCI stipulate and agree that the following briefing
13 schedule should be established for PCI's Pass-Through Motion:

- 14 ➤ Deadline for Dick/Morganti's Opposition: January 8, 2009.
15 ➤ Deadline for PCI's Reply: January 15, 2009.
16 ➤ Hearing: January 23, 2009 (unchanged).

17 This extension of time will not otherwise affect the schedule for this case.

18 There have been prior time extensions in this case, including time extensions in connection
19 with case management conferences, but no prior time extensions in connection with PCI's
20 Pass-Through Motion.

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1 A declaration in support of this stipulated request is attached.
2

3 Dated: December 29, 2008 OTIS CANALI & IRIKI
4

/s/

By:

5 Steven L. Iriki
6 Attorney for PERFORMANCE
CONTRACTING, INC.
7

8 Dated: December 29, 2008 HOWREY LLP
9

/s/

By

10 John W. Ralls
11 Attorneys for Defendant DICK/MORGANTI
12

[PROPOSED] ORDER

13 PURSUANT TO STIPULATION, IT IS SO ORDERED.

14 Defendant Dick/Morganti's Opposition to PCI's Motion to Determine Which Portions of
15 Claim Are Pass Through and Which Are Not Pass Through ("PCI's Pass-Through Motion") shall
16 be due on January 8, 2009;

17 PCI's Reply in support of its Pass-Through Motion shall be due on January 15, 2009.

18 The scheduled hearing for PCI's Pass-Through Motion shall remain January 23, 2009, at
19 10:00 a.m. in Courtroom 8, in San Francisco.

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21 Dated: January 06, 2009, 2009
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